



STATE OF UTAH
NATURAL RESOURCES
Oil, Gas & Mining

File

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355 W. North Temple • 3 Triad Center • Suite 350 • Salt Lake City, UT 84180-1203 • 801-538-5340

March 27, 1985

EXPRESS MAIL
B58658675

Mr. Melvin A. Coonrod
Co-Op Mining Company
P. O. Box 1245
Huntingting, Utah 84528

Dear Mr. Coonrod:

Re: Notice of Violation N85-4-3-2, # 1 of 2, Co-Op Mining Company,
Bear Canyon Mine, ACT/015/025, Folder No. 7, Emery County, Utah

On February 25, 1985 Co-Op was issued the above mentioned violation for conducting underground coal mining activities on the upper storage pad without Division approval. The Remedial Action required that the operator move all materials from the area and to not use the area until approved by the Division. The Time for Abatement was March 12, 1985. This violation was sent to you with a cover letter on February 26, 1985.

On February 25, 1985 I called to inform you that I was issuing the violation, at that time you told me that you had found a letter which you thought gave Co-Op approval to use the site but you could not provide me with dates of correspondence at the time of our telephone conversation. I told you then that I would be happy to consider the letters if you could provide me with them and I would vacate the violation if necessary. But as far as I knew at the time of our telephone conversation you did not have approval for the upper storage pad.

On March 7, 1985 I conducted a complete inspection at Bear Canyon Mine. During the course of the inspection Mr. Wendell Owen of Co-Op showed me a September 29, 1983 letter from the Division stating that the Division had reviewed materials submitted for the abatement of Notice of Violation N83-5-8-3, #3 of 3 (issued for drainage controls on the upper storage pad) and had found the

Page 2

Mr. Melvin A. Coonrod

Act/015/025

March 28, 1985

material to be adequate and in compliance with the regulations. The letter went on to say, "Approval is hereby granted to continue operations in these described areas in accordance with practices and procedures established in UCA 1953, Title 40-8 and regulations pertaining to surface effects of underground mining activities (UMC 700 thru 944) promulgated under Title 40-10-1, UCA 1979."

Mr. Owen told me that he felt that this granted them approval to use the upper storage pad. I told Mr. Owen at that time that I could not be sure of exactly what had been approved and I would have to refer back to the submittals referenced in the letter to see exactly what the operator had submitted and what was approved. It should be noted that at that time I did not indicate to Mr. Owen that I was either going to vacate or modify the Notice of Violation in any form.

On March 13, 1985, the Division received a letter from Co-Op Mining Company dated March 11, 1985 requesting that the above mentioned violation be vacated based on the September 29, 1983 letter discussed above. The letter did not indicate whether or not the remedial actions required for abatement of the violation had been complied with nor did it request an extension for the time for abatement of the Violation.

Upon receipt of your letter I conducted a review of the Division's files. The following information was reviewed:

- May 16, 1983 Notice of Violation N83-5-8-3, #3 of 3 was issued for failure to construct diversions in accordance with approved plans and failure to prevent additional contributions of sediment to stream flow. The violation pertained to the drainage area associated with the portal, substation and fan area. The remedial action required that the operator obtain an approved modification and to implement the approved plans.
- July 19, 1983 The Division received plans from the operator regarding the upper storage pad.
- July 28, 1983 The abatement deadline for the violation was extended to August 12, 1983.

Page 3
Mr. Melvin A. Coonrod
Act/015/025
March 28, 1985

- August 18, 1983 The Division sent a letter to the operator regarding hydrologic deficiencies for NOV N83-5-8-3, #3 of 3.
- August 29, 1983 The Division received additional information from the operator regarding the hydrologic deficiency for NOV N83-5-8-3, #3 of 3.
- September 26, 1983 The Division modified the Notice of Violation to allow Co-Op to install sediment controls prior to approval.
- September 29, 1983 The Division sent the operator the approval letter for the abatement plans for NOV N83-5-8-3, #3 of 3. (This is the same letter that was discussed earlier.)
- October 14, 1983 The Division sent the operator a deficiency letter for the upper storage pad modification which stated "after reviewing the material submitted on the upper storage pad modification for the Bear Creek Canyon Mine Plan, a few areas must still be addressed before final approval can be granted." There were three areas for which the Division requested additional information they were as follows:
 - 1. Cross sections of the upper pad storage site.
 - 2. Detailed cost estimates for final reclamation.
 - 3. The source of topsoil which will be used for final reclamation of the upper storage pad.

Based upon this document review I have determined that the September 29, 1983 letter simply approved the abatement plans for Notice of Violation N83-5-8-3, #3 of 3 it did not constitute approval for the upper storage pad modification. This is further evidenced by the October 14, 1983 deficiency letter from the Division and the lack of a final approval letter for the upper storage pad modification.

Page 4

Mr. Melvin A. Coonrod

Act/015/025

March 28, 1985

The September 29, 1983 letter from the Division does say that approval was granted to continue operation in the described area as the operator has stated. However, the operator must read the sentence in its entirety because it says that the operator must be in accordance with the ACT and REGULATIONS which state that all questions such as those enumerated in the Divisions, October 14, 1983 deficiency letter must be answered prior to the issuance of approval for an area.

On March 22, 1985, I conducted a complete inspection at Bear Canyon with yourself. At that time I found that no materials had been removed from the upper storage pad. You informed me that you still maintained that you had approval for the site and I told you that I would not vacate the violation because you had simply been given approval for the abatement plans submitted on the violation but not for the entire upper storage pad modification. At that time I told you that I would discuss the situation with Division Field Supervisor, Joe Helfrich to determine what subsequent action we would take on the violation. Having discussed the history of the violation with Mr. Helfrich I have decided to extend the time for abatement of the violation until April 4, 1985 at 5:00 PM for the removal of all materials from the upper storage pad. There will be no extensions of this deadline. Failure to meet the deadline will result in the issuance of a Cessation Order for failure to abate.

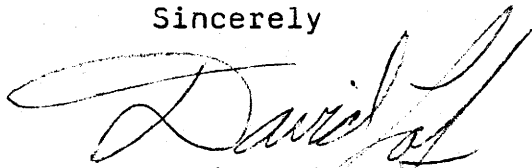
On March 22, 1985 I also informed you that your March 11, 1985 letter to the Division was not the proper means for requesting a Board Hearing regarding this matter and suggested that you contact Assistant Attorney General, Barbara Roberts, regarding the proper procedures for requesting a Board Hearing. In addition you may wish to review regulations UMC 843 and UMC 845 (specifically UMC 845.19 regarding request for hearing) and sections 20, 21, 22 and 23 of Title 40, Chapter 10 Utah Code Annotated 1953 (specifically UCA 40-10-22(3)).

Should you choose to follow the normal assessment process I would suggest that you submit to Assessment Officer Mary Ann Wright that information which you feel is pertinent to the Notice of Violation as soon as possible.

Page 5
Mr. Melvin A. Coonrod
Act/015/025
March 28, 1985

Should you have any questions regarding this letter, please do not hesitate to call myself or Joe Helfrich.

Sincerely

A handwritten signature in cursive script, appearing to read "David Lof".

David Lof
Mining Field Specialist

jvb
Enclosure
cc: Donna Griffin, OSM
Joe Helfrich, DOGM
Mary Ann Wright, DOGM
Barbara Roberts, Attorney General
0166Q

SCOTT M. MATHESON
Governor



OIL, GAS, AND MINING BOARD

GORDON E. HARMSTON
Executive Director,
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Director

Modification of Notice or Order

To the Following Permittee or Operator:

Name CO-92 Mining Company - RED CANYON MINE

Mailing Address P.O. Box 12415 HUNTINGTON, UT 84528

State Permit No. NOT FOR 1025

Utah Coal Mining and Reclamation Act, Section 40-10-1 et. seq., Utah Code Annotated (1953):

Notice of Violation No. N 95-4-3-2 Y TV dated FEB 25, 19 85.

Cessation Order No. C _____ Y TV dated _____, 19 ____.

Violation No. 1 is modified as follows: TIME FOR ABATEMENT: EXTENDED TO APRIL 4, 1985
5:00 p.m.

The reason for this modification are as follows:

Violation No. 2 is modified as follows: TIME FOR ABATEMENT: EXTENDED TO APRIL 4, 1985
5:00 p.m.

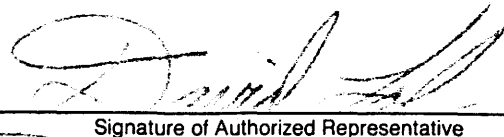
The reasons for this modification are as follows:

Violation No. _____ is modified as follows:

The reasons for this modification are as follows:

Date of Service MARCH 28 1985

Time of Service or Mailing 2:00 a.m. X p.m.



Signature of Authorized Representative

DAVID JOE 174

Name and I.D. No.